

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
Debtor.) Hon. Basil H. Lorch III

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH AARON MILLER AND MERVIN MILLER d/b/a CLF FEEDERS**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the bankruptcy estate (the "Estate") of Eastern Livestock Co., LLC ("Debtor"), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and Aaron Miller and Mervin Miller d/b/a CLF Feeders ("CLF Feeders"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case ("Chapter 11 Case") on December 6, 2010 (the "Petition Date"). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. The Trustee filed the *Trustee's Chapter 11 Plan of Liquidation* on July 23, 2012 [Docket No. 1255] and the *First Amended Chapter 11 Plan of Liquidation* on October 26,

2012 [Docket No. 1490] ("Plan"). The Court entered an Order on December 17, 2012 [Docket No. 1644] ("Confirmation Order") confirming the Plan.

4. The Trustee contends that prior to the Chapter 11 Case, Debtor purchased 119 head of cattle from or through CLF Feeders ("CLF Feeders Cattle"). The CLF Feeders Cattle were delivered to J&F Oklahoma Holdings, Inc. ("J&F") or one of its feedyards.

5. J&F interpled \$104,766.73 for the CLF Feeders Cattle that it received ("Interpled Funds"), with the Court in connection with Adversary Proceeding No. 11-59093 (the "Adversary").

6. CLF Feeders filed its Answer to the J&F First Amended Complaint (the "CLF Feeders Answer") as Docket No. 117 in the Adversary. In the CLF Feeders Answer, CLF Feeders asserted a claim to the Interpled Funds.

7. The Trustee contends that the Interpled Funds are property of Debtor's bankruptcy estate.

The Settlement

8. The Trustee has negotiated a settlement of CLF Feeders' claims on the terms set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A ("Settlement Agreement"). Pursuant to the Settlement Agreement, the Trustee and CLF Feeders have agreed to divide the Interpled Funds, with CLF Feeders receiving \$10,476.67 of the Interpled Funds (the "Settlement Payment") and the Trustee receiving the remaining \$94,290.06 of the Interpled Funds. The parties shall release and waive all other claims related to the CLF Feeders Cattle.

9. In accordance with the terms of the Plan, the \$94,290.06 of Interpled Funds received by the Trustee shall become part of the Collateral Fund (as that term is defined in the Plan).

Basis for Relief

10. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

11. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M. Holloway Found, 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

12. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. The Settlement Payment is less than the Trustee would be required to spend to obtain a judgment as to the relative rights in and to the Interpled Funds. Accordingly, continued litigation with CLF Feeders would result in significant expenses and delay and a smaller recovery to the estate.

13. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/Shawna Meyer Eikenberry

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CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2014, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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